

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS****09/15/22**

Nathan Ochsner, Clerk of Court

**UNITED STATES OF AMERICA**

Vs.

**David Damiana****CRIMINAL COMPLAINT**Case Number: **C-22-1053M**

I, the undersigned complainant state that the following is true and correct to the best of my knowledge and belief. On or about September 14, 2022 in Brooks County, in the Southern District of Texas, defendant, **David Damiana**

did knowingly or in a reckless disregard of the fact that an alien had come to, entered, or remained in the United States in violation of law, transport, or move or attempt to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law

in violation of Title 8 United States Code, Section(s) 1324  
I further state that I am a(n) Border Patrol Agent and that this complaint is based on the following facts:  
OFFICIAL TITLE

See Attached Affidavit of U.S. Border Patrol Agent **Hector Villarreal**

Continued on the attached sheet and made a part of this complaint:

☒ Yes ☐ No

Submitted by reliable electronic means, sworn to, signature attested telephonically per Fed.R.Crim.P.4.1, and probable cause found on the:

September 15, 2022

Date


at

Corpus Christi, Texas

City and State

Julie K. Hampton U.S. Magistrate Judge

Name and Title of Judicial Officer

  
Signature of Complainant
**Hector Villarreal**

Printed Name of Complainant

  
Signature of Judicial Officer

### **AFFIDAVIT**

The information contained in this report/affidavit is based upon my personal participation in the investigation, which included, but is not limited to information relayed to me by other agents and officers participating in the investigation.

#### **PROBABLE CAUSE / FACTS:**

On September 14, 2022, a Border Patrol Agent was assigned traffic check duties at the Falfurrias, Texas United States Border Patrol Checkpoint. At approximately 02:30 p.m., a white Freightliner tractor bearing Indiana license plates approached the primary lane for an immigration inspection of its occupants. Upon stopping the Border Patrol Agent noticed one subject inside the tractor, later identified as David DAMIANA. He greeted DAMIANA and asked him if he was alone in the tractor to which he said yes. He asked DAMIANA where he was headed to, to which he stated he was headed to Dallas to pick up a load. He asked DAMIANA if he dropped off a load down in the valley to which he stated yes. He then asked DAMIANA where in the valley was the load dropped off at, to which he stated I didn't drop off in the valley I dropped off in San Antonio. He then asked DAMIANA why he came from San Antonio to the valley and now heading to Dallas. DAMIANA stated he drove from San Antonio to the valley to visit his grandma for a while. The Border Patrol Agent asked DAMIANA what part of the valley his grandma lives in, to which DAMIANA nervously fumbled his words and never stated exactly where. Through the Border Patrol Agents whole conversation, he noticed DAMIANA was nervously looking around at him and the canine handler. At this time the Border Patrol Canine Handler advised him that his canine partner was alerting to the tractor and to send it requested it sent to secondary. The Border Patrol Agent then advised DAMIANA to go to the secondary area.

Once in secondary, DAMIANA freely told Border Patrol Agents that there were people inside the tractor. After further inspection of the tractor, nine subjects were found within the tractor. Border Patrol Agents questioned all subjects to their citizenship and determined all subjects were in the United States Illegally without proper documentation. The nine subjects were identified as citizens of Honduras and Mexico.

**MIRANDA RIGHTS WARNING:**

The subjects were read their rights in their preferred language and signed accordingly that they understood their rights. David Damiana, and four illegal aliens agreed to provide a statement.

**PRINCIPAL STATEMENT: David Damiana**

DAMIANA stated that he had been contacted several days ago on Facebook by an unknown male. He stated that this unknown man offered him a job moving people from the Rio Grande Valley area north of the checkpoint. DAMIANA stated that the man offered him "real money" for the job. DAMIANA stated that he was in Dallas, Texas as part of his real job which is driving a tractor and trailer. DAMIANA stated that he had been working as a truck driver for six months. He and his co-driver were in Dallas and had to drop off their trailer for repair at a shop. He stated he told his co-driver to tell his boss he had a family emergency so he could come to the Rio Grande Valley so he could do the smuggling job. DAMIANA stated that he left Dallas at about 11:30 p.m. He arrived in the Rio Grande Valley this morning and met the man who offered him the job at the Love's Gas Station in Donna, Texas. DAMIANA stated that the unknown man got in his truck to talk to him about the smuggling arrangements. He described him as dark skinned, 5'10", no visible tattoos, about 23 years of age, he was wearing a graphic t-shirt and white pants. The unknown man did not give DAMIANA a name. DAMIANA stated that the unknown man was going to pay for gas and he put the directions of where he was to go in his phone. DAMIANA stated that they were going to meet up after the checkpoint somewhere and the people would leave the tractor and the unknown man would transport the people the rest of the way to Houston, Texas. He also stated that the unknown man offered him \$15,000 USD up front for the job and DAMIANA declined because he didn't want to carry that much cash on him. The unknown man stated that he was going to be following DAMIANA through the checkpoint, but DAMIANA claimed that he did not follow him. DAMIANA was asked if anyone else followed him and he stated that he was not aware of anyone else following him. DAMIANA claims that he left Donna, Texas to go north around 2 p.m. DAMIANA stated that he had text messages with the unknown man in his white phone. DAMIANA agreed to give agents consent to that phone

**MAT-WIT STATEMENT: Santos Ricardo HERNANDEZ-Gonzalez**

HERNANDEZ stated that today's morning, Wednesday, September 14, 2022, he was staying at a warehouse with two subjects. HERNANDEZ stated that a subject in the warehouse told him and the other two, to get ready because they were about to leave. HERNANDEZ said that he could not see the vehicle he was in, because someone was blocking him. HERNANDEZ stated they drove for about two hours to a place where a tractor was waiting for them. He stated that at the arrival, the subject that took them to the tractor instructed them to stay quiet while in the tractor. HERNANDEZ said that when the tractor started driving, they drove for about forty minutes until they arrived at the United States Border Patrol Falfurrias Checkpoint. HERNANDEZ also said that the driver of the tractor did not talk to them during the drive.

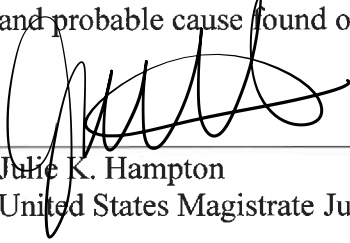
**DISPOSITION:**

The facts of this case were presented to the Assistant United States Attorney's Office who accepted David Damiana for prosecution of 8 USC 1324, Alien Smuggling. Santos Ricardo Hernandez-Gonzalez will be held as a material witness in this case.



Hector Villarreal  
Border Patrol Agent

Submitted by reliable electronic means, sworn to,  
signature attested telephonically per Fed.R.Crim.P.4.1,  
and probable cause found on September 15, 2022.



Julie K. Hampton  
United States Magistrate Judge